IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

REVIEW PETITION (ST.) NO.22948 OF 2005
IN
WRIT PETITION NO.4708 OF 2004

Ananda D. Jagtap. .. .. Petitioner
v/s.
Union of India & ors. .. .. Respondents

Mr.K. Babu Rajan for petitioner.

Mrs.N.V.Masurkar with Mr.V.S.Masurkar for res.Nos.1 to 3.

CORAM : H.L. GOKHALE &
MRS.R.S. DALVI, JJ.

DATED : 12th September 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. This Review Petition seeks to recall the order passed by this Bench on 12th July 2005 dismissing the Writ Petition filed by the petitioner seeking compassionate appointment for himself. The order was passed by us after referring to the judgment of the Apex Court in the case of **Umesh Kumar Nagpal vs. State of Haryana reported in 1994 SCC (L & S) 930**. We considered the fact that the petitioner's father had retired on medical grounds and that there was a large family which had to be supported. Even so we noted that the family was provided with adequate

retirement benefits as per the law and, therefore, the Petition was rejected.

3. Mr.Rajan appearing for the petitioner, referred to and relied upon a judgment of the Apex Court in the case of **Govind Prakash Verma vs. Life Insurance Corporation of India & ors. reported in 2005 SCC (L&S) 590** where the order passed by the Apex Court criticized that the High Court was obsessed by the fact that the widow of the deceased is getting family pension and some good amount was paid to them as terminal benefits. The Supreme Court had directed to consider the request of the appellant for compassionate appointment. On that footing, he submits that this Court should recall its order.

4. Now, what has happened is that very recently the Apex Court in the case of **Union Bank of India & ors. vs. M.T. Latheesh (in Civil Appeal No.3548 of 2006 decided on 18th August 2006)** has taken a view that the Court is expected to consider all the relevant factors while granting compassionate appointment. In para-11 thereof, the Apex Court has noted that there is a large scale unemployment in the country and it is only in the case of penury that the exception be

made for compassionate employment. In that matter also the family of the deceased was receiving monthly pension over Rs.5,000/-. The Court also noted that substantial terminal benefits were paid to the dependent of the deceased employee. The Apex Court noted these factors for coming to the conclusion that the High Court was in error in directing the appointment of the respondent under the scheme of compassionate appointment.

5. In the present case also, we have noted that the petitioner's mother has been provided with family pension. The family pension was to the tune of Rs.4,711/- and terminal benefits over Rs.2,00,000/- were provided. We also noted that the petitioner's family had agricultural income. In our view, these are factors which cannot be ignored.

6. Mr.Rajan then referred us to the provisions of the Scheme for compassionate employment and submitted that some 5% vacancies are allocated for that purpose. Mrs.Masurkar appearing for respondent Nos.1 to 3 has drawn our attention to Clause 16(c) of the said Scheme which provides that while considering a request for appointment on compassionate ground a balanced and

objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes) and all other relevant factors.

7. In our view, the law laid down in the judgment of **Umesh Kumar Nagpal (supra)** has remained undisturbed and, therefore, there is no reason to recall the order that we have passed. The Review Petition is, therefore, rejected.

(H.L. GOKHALE, J.)

(MRS.R.S. DALVI, J.)